IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 253 OF 2006

M/s. United Ink and Varnish
Co. Pvt. Ltd., . .. Petitioners.

vs.

Shri Chandrashekhar Kurve
& Ors. .. Respondents.

Mr. S.M. Naik for petitioners.
Mr. R.S. Upadhyay for respondents.

CORAM : S.U. KAMDAR, J.
DATE : 13th March, 2006.

P.C.:

. The impugned order which is challenged in the present writ petition inter alia permits the petitioner to establish before the Labour Court the charges which are levelled against the employee. It is because there is no dispute that the respondent was dismissed from service without any domestic enquiry. The Industrial Court has further directed that the employer shall provide employment to the complainant within a period of one month from the date of the order and shall also deposit wages that

are payable to the complainant from the date of the filing of the complaint till he is provided with employment. It is further directed by the Industrial Court that if the employer choses not to provide employment to the employee he is at liberty to go on depositing his wages regularly in the Court each month till the disposal of the complaint. The learned counsel appearing for the petitioner has contended that the judgment of the Industrial Court is contrary to the view of the Apex Court in the case of Workmen of M/s. Firestone Tyre & Rubber Co. of India Pvt. Ltd., vs. The Management & Ors. reported in AIR 1970 SC 1227 and which has been followed by the learned Single Judge of this Court in the case of Shankar Amrita Deshmukh v. Paper & Pulp Conversions Ltd,. & Ors., reported in 1995 II CLR Bombay 320. In so far as the aforesaid contention is concerned, I am of the opinion that the impugned order does not suffer from any such infirmity. The judgment of the learned Single Judge referring to the judgment of the Apex Court holds that if in case of dismissal without an enquiry, an opportunity should be given to the employer to adduce the evidence to prove the charges levelled against the employee. In my opinion, such opportunity has been given by the Industrial Court in the impugned order, the question of any infirmity in the present case does not arise. However, the learned counsel for the petitioner has contended

that the order passed is of reinstatement. I am of the view that the order in the operative part in sub clause does not provide for any reinstatement. It gives an option to the petitioner either to employ the respondent or to pay him his wages regularly. In that view of the matter, there is no substance in the petition. Petition fails and, therefore, dismissed. No order as to costs.